IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6141 of 2007()

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CP.61/2006 of J.M.F.C.,KUNNAMKULAM
CRIME NO.359/03 OF KUNNAMKULAM POLICE STATION

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: PETITIONER/ACCUSED NO.4

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BASHEER, S/O ABDULLAKUTTY,
THAZHATHETHIL VEEDU, CHIRAMANENGAD,
KUNNAMKULAM P.O., THRISSUR DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

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STATE OF KERALA, THROUGH THE
SUB INSPECTOR OF POLICE, KUNNAMKULAM
POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**B.A.No.6141 of 2007**

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**Dated this the 10th day of October, 2007**

**ORDER**

Application for anticipatory bail. The petitioner is the 3rd accused in Crime No.359 of 2003 of Kunnamkulam Police Station. Final report has already been filed. Cognizance has been taken by the committal court. The petitioner was enlarged on bail at the crime stage. Final report is filed for offences punishable, inter alia, under Section 413 I.P.C. The petitioner has not appeared before the learned Magistrate so far. Consequently coercive processes have been issued against the petitioner.

2. According to the petitioner, he is innocent. His omission to appear earlier was not wilful. According to him, he was not served with any summons of the court. The petitioner is now willing to appear and apply for bail and co-operate with the court for expeditious disposal of the case. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. The learned Public Prosecutor clarifies that the petitioner is the 3rd accused and not the 4th accused in C.P.61 of 2006 pending before the Judicial Magistrate of the First Class, Kunnamkulam.

**(R.BASANT, JUDGE)**

rtr/-